

Introduced by Senator Correa

February 15, 2008

An act to amend Section 2972 of the Penal Code, relating to mentally disordered offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1243, as introduced, Correa. Mentally disordered offenders: recommitment hearing.

Existing law provides procedures for involuntary commitment to a medical facility for persons who were released to parole, whose parole has expired, and who require continued medical treatment for mental disorders. Existing law requires a court to conduct a hearing on a petition for involuntary commitment.

This bill would provide that the Department of Mental Health is not required to perform a certain evaluation of the patient in order for the prosecuting attorney to file that petition. The bill would specify the contents of that petition, and would provide that failure to timely file a petition for recommitment shall not be grounds for the release of the patient if good cause is shown for the failure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2972 of the Penal Code is amended to
- 2 read:
- 3 2972. (a) The court shall conduct a hearing on the petition
- 4 under Section 2970 for continued treatment. The court shall advise
- 5 the person of his or her right to be represented by an attorney and

1 of the right to a jury trial. The attorney for the person shall be given
2 a copy of the petition, and any supporting documents. The hearing
3 shall be a civil hearing, however, in order to reduce costs the rules
4 of criminal discovery, as well as civil discovery, shall be
5 applicable.

6 The standard of proof under this section shall be proof beyond
7 a reasonable doubt, and if the trial is by jury, the jury shall be
8 unanimous in its verdict. The trial shall be by jury unless waived
9 by both the person and the district attorney. The trial shall
10 commence no later than 30 calendar days prior to the time the
11 person would otherwise have been released, unless the time is
12 waived by the person or unless good cause is shown.

13 (b) The people shall be represented by the district attorney. If
14 the person is indigent, the county public defender shall be
15 appointed.

16 (c) If the court or jury finds that the patient has a severe mental
17 disorder, that the patient's severe mental disorder is not in
18 remission or cannot be kept in remission without treatment, and
19 that by reason of his or her severe mental disorder, the patient
20 represents a substantial danger of physical harm to others, the court
21 shall order the patient recommitted to the facility in which the
22 patient was confined at the time the petition was filed, or
23 recommitted to the outpatient program in which he or she was
24 being treated at the time the petition was filed, or committed to
25 the State Department of Mental Health if the person was in prison.
26 The commitment shall be for a period of one year from the date
27 of termination of parole or a previous commitment or the scheduled
28 date of release from prison as specified in Section 2970. Time
29 spent on outpatient status, except when placed in a locked facility
30 at the direction of the outpatient supervisor, shall not count as
31 actual custody and shall not be credited toward the person's
32 maximum term of commitment or toward the person's term of
33 extended commitment.

34 (d) A person shall be released on outpatient status if the
35 committing court finds that there is reasonable cause to believe
36 that the committed person can be safely and effectively treated on
37 an outpatient basis. Except as provided in this subdivision, the
38 provisions of Title 15 (commencing with Section 1600) of Part 2,
39 shall apply to persons placed on outpatient status pursuant to this
40 paragraph. The standard for revocation under Section 1609 shall

1 be that the person cannot be safely and effectively treated on an
2 outpatient basis.

3 (e) Prior to the termination of a commitment under this section,
4 a petition for recommitment may be filed to determine whether
5 the patient's severe mental disorder is not in remission or cannot
6 be kept in remission without treatment, and whether by reason of
7 his or her severe mental disorder, the patient represents a
8 substantial danger of physical harm to others. *The petition shall*
9 *specify that the patient has a severe mental disorder; that the severe*
10 *mental disorder is not in remission or cannot be kept in remission*
11 *if the person's treatment is not continued, and that, by reason of*
12 *his or her severe mental disorder, the patient represents a*
13 *substantial danger of physical harm to others. The Department of*
14 *Mental Health is not required to perform the evaluation required*
15 *by Section 2970 in order for the prosecuting attorney to file a*
16 *petition pursuant to this subdivision. Failure to file a petition for*
17 *recommitment under this section shall not be grounds for the*
18 *release of the patient if good cause is shown for that failure.* The
19 recommitment proceeding shall be conducted in accordance with
20 the provisions of this section.

21 (f) Any commitment under this article places an affirmative
22 obligation on the treatment facility to provide treatment for the
23 underlying causes of the person's mental disorder.

24 (g) Except as provided in this subdivision, the person committed
25 shall be considered to be an involuntary mental health patient and
26 he or she shall be entitled to those rights set forth in Article 7
27 (commencing with Section 5325) of Chapter 2 of Part 1 of Division
28 5 of the Welfare and Institutions Code. Commencing January 1,
29 1986, the State Department of Mental Health may adopt regulations
30 to modify those rights as is necessary in order to provide for the
31 reasonable security of the inpatient facility in which the patient is
32 being held. This subdivision and the regulations adopted pursuant
33 thereto shall become operative on January 1, 1987, except that
34 regulations may be adopted prior to that date.